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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Ekaterina Kunitskaia,
10 Petitioner,

11 v.

12 David R Rivas,
13 Respondent.
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No. CV-25-01846-PHX-DJH (ASB)

ORDER

15 Petitioner filed this action on May 29, 2025, challenging the President's invocation
16 of 8 U.S.C. § 212(f) to restrict her entry to the United States and her ability to seek asylum
17 pursuant to 8 C.F.R. § 235.3. The Court ordered expedited briefing on her Petition. (Doc.
18 4.) And while her Petition further requested emergency injunctive relief, the Court noted
19 Petitioner did not file a separate motion outlining the relevant standard for seeking
20 injunctive relief. (*Id.*) Petitioner has now filed a request to stay her removal pending
21 resolution of her underlying petition. (Doc. 8.) The Court construes the request for a stay
22 as a motion for temporary restraining order or preliminary injunction pursuant to Rule 65.

23 In its June 2, 2025, Order the Court noted a recent decision in this District
24 determining "[t]he Proclamation [] likely lacks any statutory or constitutional authority
25 and, resultingly, does not prevent Plaintiff from pursuing a final determination on her
26 asylum claim." *Fatemeh Tabatabaeifar, v. Kika Scott, et al.*, CV-25-01238-PHX-GMS
27 (MTM), 2025 WL 1397114, at *9 (D. Ariz. May 14, 2025). (Doc. 4.) The Court finds the
28 decision in *Tabatabaeifar* persuasive. Because removal would deprive Petitioner of her


1 right to seek asylum, she has alleged that it is probable that she would suffer irreparable
2 harm absent a stay. She has also shown that she has a substantial case on the merits, without
3 prejudice to Respondents demonstrating the contrary. Lastly, the balance of hardships tips
4 sharply in Petitioner's favor. *See Nken v. Holder*, 556 U.S. 418, 434 (2009). A stay will
5 maintain the status quo until Respondents have had an opportunity to brief the Motion for
6 Preliminary Injunction and will facilitate a considered review of the parties' arguments by
7 the Court and a reasoned decision on the issues presented.

8 **IT IS THEREFORE ORDERED** Petitioner's Motion for Stay of Removal
9 (Doc. 8) is **granted**. Respondents are enjoined from removing Petitioner Ekaterina
10 Kunitskaia (A# 249-141-136) from the United States pending further order of this Court.
11 Petitioner's request for a Preliminary Injunction remains pending.

12 **IT IS FURTHER ORDERED** the Clerk of Court must immediately transmit by
13 email a copy of this Order and a copy of the Petition to the United States Attorney for the
14 District of Arizona, to the attention of Katherine Branch at katherine.branch@usdoj.gov,
15 Melissa Kroeger at melissa.kroeger@usdoj.gov, and Lon Leavitt at lon.leavitt@usdoj.gov.

16 **IT IS FURTHER ORDERED** Counsel for Respondents must file a response to the
17 Motion for Preliminary Injunction no later than Monday June 9, 2025. Petitioner may file
18 a Reply no later than Wednesday, June 11, 2025.

19 Dated this 3rd day of June, 2025.

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23 Honorable Diane J. Humetewa
24 United States District Judge
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